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COMMISSIONER

**The Commonwealth of Massachusetts**  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
Board of Respiratory Care  
239 Causeway Street, Suite 500, Boston, MA 02114

Tel: 617-973-0900  
TTY : 617-973-0988  
[www.mass.gov/dph/boards/rn](http://www.mass.gov/dph/boards/rn)

March 11, 2014

BY FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7012 3460 0001 7331 3184

Jaime Swift  
redacted

RE: In the Matter of Jaime Swift, RC License No. 6047  
Board of Registration of Respiratory Care Docket No. REP-2012-009

Dear Ms. Swift:

Enclosed is the *Final Decision and Order by Default* ("Final Decision") issued by the Board of Respiratory Care ("Board") in connection with the above-referenced matter. The effective date of the Board's Order is ten (10) days from the date appearing on page 3 of the *Final Decision* ("Date Issued"). Your appeal rights are noted on page 3 of the *Final Decision*.

Sincerely,

A handwritten signature in cursive script, reading "Mary A. Phillips".

Mary A. Phillips  
Executive Director  
Board of Respiratory Care

Enc.

cc: Eugene Langner, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY CARE

In the Matter of )  
Jaime Swift )  
License No. 6047 )  
License Expires 5/31/14 )

Docket No. REP-2012-009

FINAL DECISION AND ORDER BY DEFAULT

On September 24, 2013, the Board of Respiratory Care ("Board") issued and duly served on Jaime Swift ("Respondent") an Order to Show Cause ("Show Cause Order")<sup>1</sup> related to a complaint filed regarding Respondent's license. In addition to stating the allegations against Respondent, the Show Cause Order notified Respondent that an Answer to the Show Cause Order ("Answer") was to be submitted within 21 days of receipt of the Show Cause Order<sup>2</sup>. The Show Cause Order also notified Respondent of the right to request a hearing on the allegations<sup>3</sup>, and that any hearing request ("Request for Hearing") was to be submitted within 21 days of receipt of the Show Cause Order.<sup>4</sup> Respondent was further notified that failure to submit an Answer within 21 days "shall result in the entry of default in the captioned matter" and, if defaulted, "the Board may enter a Final Decision and Order that assumes the truth of the allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary action against [Respondent's] license...including any right to renew [Respondent's] license." A copy of the Show Cause Order is attached to this Final Decision and Order by Default and is incorporated herein by reference.

On October 23, 2013, Prosecuting Counsel sent notice to Respondent to file an Answer and a Request for Hearing by October 30, 2013. The notice again advised Respondent that if defaulted, the Board might enter a Final Decision and Order that assumes the truth of the allegations stated in the Show Cause Order and impose license discipline, including discipline on any right to renew.

<sup>1</sup> Pursuant to 801 CMR 1.01(6)(a).

<sup>2</sup> In accordance with 801 CMR 1.01(6)(d)(2).

<sup>3</sup> Pursuant to M.G.L. c. 112, s. 61.

<sup>4</sup> Respondent was also notified that failure to timely submit a Request for Hearing would constitute a waiver of the right to a hearing.

As of the date of this Final Decision and Order by Default, Respondent has failed to file either an Answer or a Request for Hearing.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by M.G.L. c. 30A, s. 10, and sufficient notice of the issues involved to afford Respondent reasonable opportunity to prepare and present evidence and argument as required by M.G.L. c. 30A, s. 11(1). The Board has also notified Respondent of the obligation under 801 CMR 1.01(6)(d) to file an Answer to the Show Cause Order within 21 days of its receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by M.G.L. c. 30A, s. 10(2), the Board may make informal disposition of any adjudicatory proceeding by default. Upon default, the allegations of the complaint against Respondent are accepted as true. *Danca Corp. v. Raytheon Co.*, 28 Mass. App. Ct. 942, 943 (1990).

Based on the foregoing, the Board enters a default in the above-captioned matter and, consequently, the allegations in the Order to Show Cause are deemed to be true and Respondent has waived the right to be heard. In accordance with the Board's authority and statutory mandate, the Board orders as follows:

#### ORDER

The Board REVOKES Respondent Jamie Swift's license to practice as a Respiratory Therapist in Massachusetts, License No. RT6047.

The Respondent shall return any license issued to her by the Board, whether current or expired, by hand or by certified mail, to the Board's office at 239 Causeway Street, Boston, Massachusetts 02114, within five (5) days of the Effective Date of this Final Decision and Order.

The Respondent may in writing request the Board for relicensure which the Board may grant contingent on the completion of requirements as may be determined necessary by the Board at the time of such petition, including, but not limited to, the Respondent entering into a post-revocation Probation Agreement with the Board. The terms of any such agreement shall be determined by the Board at the time of its review

of any request for relicensure. The Board reserves the right to deny relicensure if the Board determines that relicensure is not in the best interests of the public health, safety and welfare.

The Board voted to accept the within Final Decision and Order at its meeting held on February 25, 2014, by the following vote:

In favor: Edward Burns, RT; David Polanik, RT; Sadeq Ali Quraishi, MD; Annmarie Patten, RT.

Opposed: None.

Abstained: None

Recused: None

EFFECTIVE DATE OF ORDER


This Final Decision and Order becomes effective upon the tenth (10<sup>th</sup>) day from the date it is issued (see "Date Issued" below).

RIGHT TO APPEAL

Respondent is hereby notified of her right to appeal this Final Decision and Order to the Supreme Judicial Court pursuant to G.L. c. 112, § 64 within thirty days of receipt of notice of this Final Decision and Order.

Board of Registration in Respiratory Care

Date Issued: March 11, 2014

  
Mary A. Phillips,  
Executive Director

Notified:

VIA FIRST CLASS AND CERTIFIED MAIL RETURN  
RECEIPT REQUESTED NO. 7012 3460 0001 7331 3184

Jaime Swift  
redacted

BY HAND DELIVERY  
Eugene Langner, Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF RESPIRATORY  
CARE

In the Matter of )  
Jaime Swift )  
License No. 6047 )  
License Expires 5/31/14 )

Docket No. REP-2012-009

ORDER TO SHOW CAUSE

Jaime Swift, you are hereby ordered to appear and show cause why the Massachusetts Board of Respiratory Care ("Board") should not suspend, revoke or otherwise take action against your license to practice respiratory care in the Commonwealth of Massachusetts, License No. 6047, or your right to renew such license, pursuant to Massachusetts General Laws (G. L.) Chapter 112, §§ 23X and 61 and Board regulation 261 CMR 4.04, based upon the following facts and allegations:

1. On or about September 24, 2008, the Board issued to you a license to engage in the practice of respiratory care in the Commonwealth of Massachusetts, License No. 6047. Your license is current, and expires on May 31, 2014.
2. On or about June 13, 2012, while you were employed as a respiratory therapist at UMass Memorial Hospital in Worcester, Massachusetts ("UMass"), you were assigned to perform a tracheostomy assessment for a UMass patient ("Patient A").
3. You failed to perform the assessment referenced in the preceding paragraph.
4. You documented having performed the assessment referenced in Paragraph 2 above.
5. In connection with the documentation described in the preceding paragraph, you documented the presence of a tracheostomy tube in Patient A.
6. Patient A's tracheostomy tube had in fact been removed at or about 4:00 p.m. on June 12, 2012.
7. You had previously been counseled on two (2) occasions while employed as a respiratory therapist at UMass, for failing to complete treatment you had begun for a patient, and for leaving patients in an intensive care unit unattended.
8. Your conduct as alleged warrants disciplinary action by the Board against your license to practice respiratory care pursuant to Board regulation 261 CMR 4.04(5)(a), for violation of Grounds for Complaint, namely:

- (i) committing an offense against any provision of the laws of the Commonwealth relating to the practice of respiratory care, or any rule or regulation adopted thereunder;
  - (ii) engaging in conduct which places into question your competence to practice respiratory care; and
  - (iii) acting in a manner which is professionally unethical according to ethical standards in the profession of respiratory care.
9. Your conduct as alleged warrants disciplinary action by the Board against your license to practice respiratory care pursuant to G. L. c. 112, § 61 for deceit, malpractice, and gross misconduct in the practice of the profession or for any offense against the laws of the Commonwealth relating thereto.
  10. Your conduct as alleged warrants disciplinary action by the Board against your license to practice respiratory care pursuant to G. L. c. 112, § 23X(c) for being grossly negligent in the practice of respiratory therapy.
  11. Your conduct as alleged warrants disciplinary action by the Board against your license to practice respiratory care pursuant to G. L. c. 112, § 23X(f) for acting in a manner which is professionally unethical according to ethical standards of the profession of respiratory care.
  12. Your conduct as alleged also constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

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You have a right to an adjudicatory hearing ("hearing") on the allegations contained in the Order to Show Cause before the Board determines whether to suspend, revoke, or impose other discipline against your license. G.L. c. 112, § 61. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01(6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the rights: to a hearing, to secure legal counsel or another representative to represent your interests, to call and examine witnesses, to cross-

examine witnesses who testify against you, to testify on your own behalf, to introduce evidence, and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). Upon request, the Board will make available a copy of the audio recording of the proceeding at your own expense. Pursuant to 801 CMR 1.01(10)(i)(1), upon motion, you "may be allowed to provide a public stenographer to transcribe the proceedings at [your] own expense upon terms ordered by the Presiding Officer." Those terms may include a requirement that any copy of the transcript produced must be sent immediately upon completion, and on an ongoing basis, directly to the Presiding Officer by the stenographer or transcription service. The transcript will be made available to the Prosecutor representing the Board. Please note that the administrative record of the proceedings, including, but not limited to, the written transcript of the hearing, is a public record and subject to the provisions of G.L. c. 4 § 7 and G.L. c. 66, §10.

Your failure to submit a written request for a hearing within twenty-one (21) days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action. Your failure to submit an Answer to the Order to Show Cause within twenty-one (21) days of receipt of the Order to Show Cause *shall result in the entry of default* in the captioned matter.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, your failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or your failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license to practice respiratory care in the Commonwealth of Massachusetts, including any right to renew your license.

Your Answer to the Order to Show Cause and your written request for a hearing must be filed with Eugene Langner, Prosecuting Counsel, at the following address:

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Eugene Langner, Esq.  
Prosecuting Counsel  
Department of Public Health  
Office of the General Counsel, 5<sup>th</sup> Floor  
239 Causeway Street  
Boston, MA 02114

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecuting Counsel. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0838 to schedule a time that is mutually convenient.

BOARD OF RESPIRATORY CARE.

By: 

Eugene Langner, Esq.  
Prosecuting Counsel  
Department of Public Health

Date: September 24, 2013

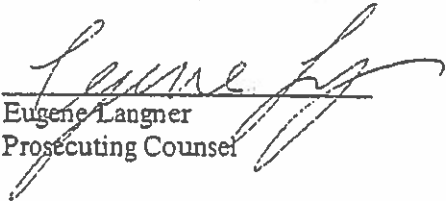
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order to Show Cause was served upon the Respondent:

Jaime Swift  
redacted

by first class mail, postage prepaid, and by Certified Mail No. 7012 3460 0001 7331 1401

This 24<sup>th</sup> day of September, 2013.

  
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Eugene Langner  
Prosecuting Counsel